U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF M-A-B-A-

DATE: FEB. 9, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, an author and lecturer, seeks classification as a member of the professions holding an advanced degree. *See* Immigration and Nationality Act (the Act) § 203(b)(2), 8 U.S.C. § 1153(b)(2). The Director, Texas Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

The Petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The Director found that the Petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the Petitioner has not established that a waiver of a job offer would be in the national interest. On appeal, the Petitioner submits a brief and additional evidence.

I. LAW

Section 203(b) of the Act states, in pertinent part:

> (2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. –
>
> > (A) In General. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.
> >
> > (B) Waiver of Job Offer –
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> > > (i) . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

II. ISSUE

The sole issue in contention is whether the Petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest. Neither the statute nor the pertinent regulations define the term "national interest." Additionally, Congress did not provide a specific definition of "in the national interest." *Matter of New York State Dep't of Transp.* (*NYSDOT*), 22 I&N Dec. 215, 217-18 (Act. Assoc. Comm'r 1998), set forth several factors which must be considered when evaluating a request for a national interest waiver. First, a petitioner must establish that he seeks employment in an area of substantial intrinsic merit. *Id.* at 217. Next, a petitioner must demonstrate that the proposed benefit will be national in scope. *Id.* Finally, the petitioner seeking the waiver must show that he will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications. *Id.* at 217-18.

The Petitioner has established that his work as an author and lecturer is in an area of substantial intrinsic merit that the proposed benefits of his self-improvement books and motivational lectures would be national in scope. It remains, then, to determine whether the Petitioner will benefit the national interest to a greater extent than an available U.S. worker with the same minimum qualifications.

Although the national interest waiver hinges on prospective national benefit, the petitioner must show that his past record justifies projections of future benefit to the national interest. *Id.* at 219. The petitioner's subjective assurance that he will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The inclusion of the term "prospective" is used here to require future contributions by the petitioner, rather than to facilitate the entry of an individual with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative. *Id.*

Furthermore, eligibility for the waiver must rest with the petitioner's own qualifications rather than with the position sought. Assertions regarding the overall importance of a petitioner's area of expertise cannot suffice to establish eligibility for a national interest waiver. *Id.* at 220. At issue is whether the petitioner's contributions in the field are of such significance that he merits the special benefit of a national interest waiver, a benefit separate and distinct from the visa classification he seeks.

A petitioner must exhibit a past history of achievement with some degree of influence on the field as a whole. *Id.* at 219, n. 6. In evaluating the petitioner's achievements, original innovation, such as demonstrated by a patent, is insufficient by itself. Whether the specific innovation serves the national interest must be decided on a case-by-case basis. *Id.* at 221, n. 7.

III. FACTS AND ANALYSIS

The Petitioner filed the Form I-140, Immigrant Petition for Alien Worker, on March 6, 2014. The Petitioner submitted documentation reflecting his televised appearances, motivational speeches at

various public forums, and authorship of multiple books and articles concerning social interactions, family life, and financial success. The Director determined that the Petitioner's impact and influence on his field did not satisfy the third prong of the *NYSDOT* national interest analysis.

In a statement provided on appeal, the Petitioner asserts that his "written works and [ ] lectures focus on social harmony and the similarities in cultures that help form success in the privacy of the home and in the workplace." The Petitioner further states: "My bicultural approach, my work experiences, my educational background and my life experiences in the Middle East make my written works like no other's." In addition, the Petitioner indicates that his "work, if disseminated in the United States, can make a huge difference in getting [his] readers" closer to finding "peace, emotional healing, and empathy."

The record includes various letters of support describing the Petitioner's human development work and skills as a writer and lecturer.[1] For example, Former Dean of the Faculty of Arts, Egypt, asserted that the Petitioner wrote books that "contributed to solving a wide range of youth problems. In addition, he conducted many lectures in most of the Egyptian Universities and major firms." also stated the Petitioner had a "private centre for providing specialized courses in these fields which set him as a training asset to many universities and big corporations in Egypt." Although noted that the Petitioner shared his self-improvement guidance with university students, corporate employees, and others, there is no documentary evidence showing that his books, lectures, and training sessions have influenced the field at a level sufficient to waive the job offer requirement. For example, there is no indication that the Petitioner's programs and literature have affected practices in the self-improvement industry or have otherwise influenced the field as a whole.

Head of the Psychology Department, asserted: "[The Petitioner] offers human development lectures, books, newspaper articles and a regular Thursday TV show ' In this program, he offers a lot of advices [*sic*] and concentrates on the most complicated problems which face the Egyptian families on a daily basis." The record, however, does not include evidence indicating that the Petitioner's work has resulted in significant lifestyle changes for his viewers, readers, and audiences; has received favorable reviews from prominent psychologists, sociologists, and financial planners; or has otherwise affected the field as a whole. also mentioned that the Petitioner has established "several major training companies" and organized "international conferences that hosted internationally recognized experts in training," but did not provide specific examples of how the Petitioner's work has significantly impacted the field.

Professor of Hebrew Language, Egypt, indicated that the Petitioner, in conjunction with his training companies, has hosted "training Gurus" such as In addition, mentioned that the

[1] We discuss only a sampling of these letters, but have reviewed and considered each one.

Petitioner has organized "several youth assemblies and conduct[ed] multiple social programs on TV." The record, however, does not reflect that the Petitioner's work has had a substantial effect on the self-improvement industry.

Professor of Turkish Language, Egypt, stated that the Petitioner's "commitment, good manners, courtesy and personal skills in dealing with others in addition to his enlightened mind, practical and scientific experience has [*sic*] contributed to a great extent in developing youth awareness and skills through his distinguished courses, lectures and books." He did not, however, provide information on how the Petitioner's youth programs have affected the field as a whole.

A January 2014 letter from , Chairman of the Board, an Egyptian book publisher, noted that the Petitioner authored and that "more than 150000" copies of each book were printed. Similarly, a February 2014 letter from Chairman of the Board, another Egyptian book publisher, indicated that the Petitioner wrote and that "more than 120000" copies of each book were printed. In addition, the Petitioner submitted copies of the aforementioned books.[2] While and mentioned the number of copies in print, they did not indicate the number of books actually sold or provide an explanation regarding how the Petitioner's writings have influenced fields of human development or philosophy.

In response to the Director's request for evidence (RFE), the Petitioner provided a November 2014 letter from asserting that the Petitioner "is one of the most renowned writers and life coaches in Egypt" and that his "books have been distributed in all 22 Arab countries, as well as being exhibited in most book fairs and exhibits in the Middle East." further stated that has "published a total of 8 books for [the Petitioner] with [ ] total net sales of $1219500" and that the Petitioner "makes 20% in profit of the total sales." According to the information from the Petitioner earned $243,900 from his book sales, but there is no documentary evidence demonstrating that his published work has influenced the field as a whole.

The Petitioner's response included a December 2014 letter from an English/Arabic translator residing in Florida. indicated that she has recently worked with the Petitioner in translating his book to English and that she expects "the book will be published in the next few weeks." In addition, noted that she is currently in the process of translating more of the Petitioner's books from Arabic to English. The Petitioner also provided a letter from a photographer, stating that he took

[2] We note that the Petitioner's books do not have an International Standard Book Number (ISBN). The ISBN "is a 13-digit number that uniquely identifies books and book-like products published internationally." *See* http://www.isbn.org/standards/home/isbn/us/isbnqa.asp, accessed on January 15, 2016, copy incorporated into the record of proceedings.

photographs of the Petitioner for and two other of his books that were "coming out in early 2015." and statements indicating that the English language versions of and two other books would be published in 2015 do not constitute evidence that the Petitioner's translated work was already influential at the time of filing the Form I-140. Eligibility must be established at the time of filing. 8 C.F.R. § 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). Accordingly, we will not consider any English language versions of the Petitioner's books that were not yet published as of the filing date and, thus had not been disseminated in the field, to establish his eligibility at the time of filing.

The Petitioner also submitted several letters of support from his personal acquaintances in the Pennsylvania area describing him as a devoted family man, skilled communicator, effective problem solver, and positive motivator. While the letters reflect that the Petitioner is esteemed by members of the local community, they do not indicate that his work has had a national effect or has otherwise influenced the field as a whole.

The RFE response included photographic reproductions of the Petitioner's awards in the Arabic language (such as those from and in Egypt), but they were not accompanied by properly certified English language translations. Although the Petitioner submitted a December 2014 notarized statement from the translator asserting that "the documents translated in [the Petitioner's] portfolio are correct true translations," the translator did not identify the specific documents or indicate that she was competent to translate from the foreign language into English. The regulation at 8 C.F.R. §103.2(b)(3) provides in pertinent part:

> *Translations*. Any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

As the existing English language translations of the awards in Arabic were not properly certified, they are of limited probative value. Regardless, while particularly significant awards may serve as evidence of the Petitioner's impact and influence on the field, he has not demonstrated that the awards he received have more than regional or institutional significance. There is no evidence showing that the Petitioner's awards are indicative of his impact on the field of human development or the self-improvement industry as a whole.

In addition, the Petitioner provided various certificates of participation and completion for training courses and seminars relating to his professional development. While taking courses and attending seminars are ways to increase one's professional knowledge, there is nothing inherent in these activities to establish eligibility for the national interest waiver.

On appeal, the Petitioner submits a June 2015 letter from indicating that she has translated four of the Petitioner's books for publication by and that "[e]ach book is unique in its own way and tackles universal subjects that all humans from all different nationalities,

races, creeds, belief systems, and backgrounds." further states: "What is truly peculiar about [the Petitioner's] ideas is that they reflect a different perspective to U.S. readers. He brings the wisdom he learned through his travels, readings, and experiences to the reader while he bridges gaps between the cultures." While comments about the uniqueness of the Petitioner's books and the peculiarity of his ideas, she does not provide any examples of their influence on the field, or explain how his work will benefit the nation to a greater extent than other U.S. authors working in the human development field or self-improvement industry.

The Petitioner also provides a May 2015 letter from Marketing Consultant, Indiana, indicating that his company has a "business relationship and partnership with [the Petitioner] on the upcoming launch and promotion of his first U.S. published book "[3] further states: "[The Petitioner] has invested heavily in the marketing campaign for his book, and later this year will begin a Publicity Campaign, promotional, and book signing tour here in the United States and Canada, which will culminate with book signings at several There is no documentary evidence showing, however, that the Petitioner's work has already influenced the field as a whole. Again, eligibility must be established at the time of filing. 8 C.F.R. § 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. at 49. expectations for the Petitioner's publicity campaign in the latter part of 2015 are not evidence of his eligibility at the time of filing.

The Petitioner submitted letters of varying probative value. We have addressed the specific assertions above. Generalized conclusory assertions that do not identify specific contributions or their impact in the field have little probative value. *See 1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications). In addition, uncorroborated assertions are insufficient. *See Visinscaia v. Beers*, 4 F.Supp.3d 126, 134-35 (D.D.C. 2013) (upholding USCIS' decision to give limited weight to uncorroborated assertions from practitioners in the field); *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988) (holding that an agency "may, in its discretion, use as advisory opinions statements . . . submitted in evidence as expert testimony," but is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought and "is not required to accept or may give less weight" to evidence that is "in any way questionable"). The submission of reference letters supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the petitioner's eligibility. *Id. See also Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). As the submitted reference letters did not establish that the Petitioner's work has influenced the field as a whole, they do not demonstrate his eligibility for the national interest waiver.

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[3] a division of is a self-publishing company specializing in self-help books with a positive message." *See* accessed on January 15, 2016, copy incorporated into the record of proceedings.

The Petitioner asserts that his "multi-cultural experiences and the content of his works make him and them unique so as to overcome the need for a job offer." Any assertion that a petitioner possesses useful skills and experiences, or a "unique background" relates to whether similarly-trained workers are available in the United States and is an issue under the jurisdiction of the U.S. Department of Labor through the labor certification process. *See NYSDOT*, 22 I&N Dec. at 221. Furthermore, even considering the Petitioner's self-employment, the inapplicability or unavailability of a labor certification cannot be viewed as sufficient cause for a national interest waiver; he still must demonstrate that he will serve the national interest to a substantially greater degree than do others in his field. *Id.* at 218, n.5.

III. CONCLUSION

Considering the letters and other evidence in the aggregate, the record does not establish that the Petitioner's work has influenced the field as a whole or that he will otherwise serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications. The Petitioner has not shown that his past record of achievement is at a level sufficient to waive the job offer requirement which, by law, normally attaches to the visa classification he seeks.

A plain reading of the statute indicates that it was not the intent of Congress that every advanced degree professional or alien of exceptional ability should be exempt from the requirement of a job offer based on national interest. Although a petitioner need not demonstrate notoriety on the scale of national acclaim, he must have "a past history of demonstrable achievement with some degree of influence on the field as a whole." *Id.* at 219, n.6. On the basis of the evidence submitted, the Petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the Petitioner has not met that burden.

ORDER: The appeal is dismissed.

Cite as *Matter of M-A-B-A-*, ID# 15163(AAO Feb. 9, 2016)